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In re Application of
SNAP-ON TECHNOLOGIES, Inc.
PCT No.: PCT/US3/23560
Int. Filing Date: 25 July 2003
Priority Date: 25 July 2002
Docket No.: 66396-059
For: DIAGNOSING MALFUNCTIONING
WHEEL ALIGNMENT SYSTEM

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DECISION

ON PETITION UNDER

37 CFR 1.10(d)

This decision is in response to applicant's "Response to Decision On Petition to Correct Filing Date Under 37 C.F.R. 1.10(d)" filed in the United States Patent and Trademark Office on 13 November 2003. No petition fee is required.

BACKGROUND

Applicant filed international application PCT/US3/23560 via Express Mail.

On 02 September 2003, RO/US mailed a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) indicating the international filing date was 26 July 2003.

On 04 September 2003, applicant filed a petition accompanied by copies of the Express Mail mailing label, the Certificate of Mailing by Express Mail and declarations.

On 16 September 2003, the Office mailed Decision On Petition Under 37 CFR 1.10(d), dismissing applicant's petition without prejudice.

On 13 November 2003, applicant mailed the instant renewed petition.

On 21 November 2003, applicant submitted Response to Invitation to Correct Priority Claim, indicating that applicant was awaiting a response to a renewed petition.

DISCUSSION

Applicant claims that the filing date accorded to correspondence filed by Express Mail is incorrect. The Express Mail mailing label indicates 26 July 2003 as the date of deposit, however, applicant claims that it was deposited on 25 July 2003. The applicable rule is 37 CFR 1.10(d), which states:

(d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

- (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
- (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";
- (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Items (1) and (2) were previously met.

Item (3) has now been satisfied. The statement from USPS is sufficient.

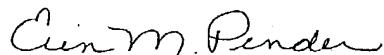
CONCLUSION

For the reasons listed above, applicant's petition under 37 CFR 1.10(d) to correct the international filing date is **GRANTED**.

The application is being returned to the RO/US for continued processing, including preparation of a new "Notification of International Application Number and of the International Filing Date" (Form PCT/RO/105) to indicate an international filing date of **25 July 2003**.



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